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APPENDIX A TO PART 8—FEDERAL FINANCIAL ASSISTANCE COVERED BY TITLE VI

AUTHORITY: Sec. 602, Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

SOURCE: 38 FR 17938, July 5, 1973, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 8 appear at 68 FR 51352, Aug. 26, 2003.

Subpart A—General Provisions; Prohibitions: Nondiscrimination Clause; Applicability to Programs

§ 8.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the “Act”) to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance from the Department of Commerce. This part is consistent with achievement of the objectives of the statutes authorizing the financial assistance given by the Department of Commerce as provided in section 602 of the Act.

§ 8.2 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the types of Federal financial assistance listed in Appendix A to this part and as said Appendix may be amended. It applies to

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money paid, property transferred, or other Federal financial assistance extended after January 9, 1965, pursuant to an application approved prior to such effective date.

(b) This part does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended before January 9, 1965, except where such assistance was subject to the title VI regulations of this Department or of any other agency whose responsibilities are now exercised by this Department, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization except to the extent described in § 8.4(c). The fact that a type of Federal financial assistance is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that a program is not covered. Other types of Federal financial assistance under statutes now in force or hereinafter enacted may be added to the list by notice published in the FEDERAL REGISTER.

§ 8.3 Definitions.

(a) *Department* means the Department of Commerce, and includes each and all of its operating and equivalent other units.

(b) *Secretary* means the Secretary of Commerce.

(c) *United States* means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term *State* means any one of the foregoing.

(d) *Person* means an individual in the United States who is or is eligible to be a participant in or an ultimate beneficiary of any program which receives Federal financial assistance, and includes an individual who is an owner or member of a firm, corporation, or other business or organization which is or is eligible to be a participant in or an ultimate beneficiary of such a program. Where a primary objective of the Federal financial assistance to a program

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is to provide employment, “person” includes employees or applicants for employment of a recipient or other party subject to this part under such program.

(e) *Responsible department official* with respect to any program receiving Federal financial assistance means the Secretary or other official of the Department who by law or by delegation has the principal authority within the Department for the administration of a law extending such assistance. It also means any officials so designated by due delegation of authority within the Department to act in such capacity with regard to any program under this part.

(f) *Federal financial assistance* includes

(1) Grants, loans, or agreements for participation in loans, of Federal funds,

(2) The grant or donation of Federal property or interests in property,

(3) The sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or in property in which the Federal Government has an interest, without consideration, or at a nominal consideration, or at a consideration which is reduced, for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient,

(4) Waiver of charges which would normally be made for the furnishing of Government services,

(5) The detail of Federal personnel,

(6) Technical assistance, and

(7) Any Federal agreement, arrangement, contract, or other instrument which has as one of its purposes the provision of assistance.

(g) *Program or activity* and *program* mean all of the operations of any entity described in paragraphs (g)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or

agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (g)(1), (2), or (3) of this section.

(h) *Facility* includes all or any portion of structures, equipment, vessels, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, contract for use, or acquisition of facilities.

(i) *Recipient* means any governmental, public or private agency, institution, organization, or other entity, or any individual, who or which is an applicant for Federal financial assistance, or to whom Federal financial assistance is extended directly or through another recipient. Recipient further includes a subgrantee, an entity which leases or operates a facility for or on behalf of a recipient, and any successors, assignees, or transferees of any kind of the recipient, but does not include any person who is an ultimate beneficiary.

(j) *Primary recipient* means any recipient which is authorized or required to

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extend or distribute Federal financial assistance to another recipient.

(k) *Applicant* means one who submits an application, request, or plan required to be approved by a responsible Department official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and “application” means such an application, request, or plan.

(l) *Other parties subject to this part* includes any governmental, public or private agency, institution, organization, or other entity, or any individual, who or which, like a recipient, is not to engage in discriminatory acts with respect to applicable persons covered by this part, because of his or its direct or substantial participation in any program, such as a contractor, subcontractor, provider of employment, or user of facilities or services provided under any program.

[38 FR 17938, July 5, 1973, as amended at 68 FR 51352, Aug. 26, 2003]

§ 8.4 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.

(b) *Specific discriminatory acts prohibited.* (1) A recipient of Federal financial assistance, or other party subject to this part, shall not participate, directly or through contractual or other arrangements, in any act or course of conduct which, on the ground of race, color, or national origin:

(i) Denies to a person any service, financial aid, or other benefit provided under the program;

(ii) Provides any service, financial aid, or other benefit, to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subjects a person to segregation or separate or other discriminatory treatment in any matter related to his receipt (or nonreceipt) of any such service, financial aid, property, or other benefit under the program.

(iv) Restricts a person in any way in the enjoyment of services, facilities, or any other advantage, privilege, prop-

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erty, or benefit provided to others under the programs;

(v) Treats a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Denies a person an opportunity to participate in the program through the provision of property or services or otherwise, or affords him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section);

(vii) Denies a person the same opportunity or consideration given others to be selected or retained or otherwise to participate as a contractor, subcontractor, or subgrantee;

(viii) Denies a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(2) A recipient, or other party subject to this part, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any program, or the class of persons to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program, shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect any persons of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or other party subject to this part may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the